

THE COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Investigation by the Department of Telecommunications)	
and Energy on its own motion pursuant to G.L. c. 159, §)	
105 and G.L. c. 164, § 76 to investigate increasing)	D.T.E. 01-106
the penetration rate for discounted electric,)	
gas and telephone service.)	

**COMMENTS OF MASSACHUSETTS ELECTRIC COMPANY
AND NANTUCKET ELECTRIC COMPANY**

INTRODUCTION

Massachusetts Electric Company and Nantucket Electric Company (together, “Mass. Electric” or “Company”) appreciate the opportunity to provide comments on the effectiveness of current low-income outreach programs and enhancing enrollment procedures for eligible customers. As indicated in the Department of Telecommunication and Energy’s (“Department”) Vote and Order to Open Investigation in this docket, Mass. Electric has been committed to providing a discounted rate for retail delivery service to eligible customers since 1978. As of December 2001, Massachusetts Electric Company has 71,009 customers and Nantucket Electric Company has 68 customers on the residential discount rate (Rate R-2).

DISCUSSION

(1) Describe outreach efforts to identify eligible discount customers.

Mass. Electric undertakes various efforts in its commitment to reach customers who are eligible for the residential discount rate. The following describes the Company's different methods of communication of the rate. For a more extensive discussion of Mass. Electric's 2001 outreach efforts, please refer to the Company's 2001 Annual Report to the DOER, attached hereto as Exhibit 1.

?? Point of Purchase Displays

Mass. Electric provides educational point-of-purchase displays explaining the availability of the discount rate and discount rate applications to appropriate governmental agencies, payment agencies and community libraries. These governmental agencies include the Massachusetts Department of Revenue, Massachusetts Department of Transitional Assistance, Massachusetts Department of Housing and Community Development, Massachusetts Department of Veteran Services, and U.S. Social Security Administration. In 2001, the Company also provided approximately 200 point-of-purchase displays to payment agencies located both within and outside of the Company's service territory.¹ Such payment agencies include, but are not limited to, local supermarkets, variety stores, banks and pharmacies. In addition, Mass. Electric provided approximately 170 point-of-purchase displays to local community libraries during 2001.

?? Bill Newsletters/ Bill Messages/ Welcome Package

¹ The Company provides point-of-purchase displays outside of its service territory to reach customers who may work outside of the Company's service territory yet live and have electric accounts within the Company's service territory.

The Company includes discount rate information in its bill inserts, bill messages, Welcome Packages, and newsletters. Mass. Electric has found that using these mediums is the strongest avenue for informing consumers of the availability of the discount rate, as they are the most frequently read communication pieces. Throughout 2001, the Company included a number of inserts regarding the discount rate and eligibility criteria in many monthly bills.²

The Company has expanded its Welcome Package program. Mass. Electric now sends a Welcome Package to all new residential customers in its service territory. The package contains a user-friendly guide with helpful information about electricity, energy conservation, products and services, as well as savings and services available in the community. The Welcome Package contains a dedicated page that explains the Company's residential discount rate and its eligibility requirements.

?? **Company Website**

Discount rate eligibility guideline information, as well as printable versions of applications, can also be found on the Company's websites: www.masselectric.com and www.nantucketelectric.com.

?? **Customer Service Representatives**

² The Company includes bill messages regarding the residential discount rate via stand-alone bill inserts detailing the rate and its eligibility criteria, as well as in the Summary of Rates bill insert sent to new residential customers. The bill insert is identified as an important notice in four languages: Spanish, Portuguese, Cambodian, and Vietnamese. In 2001, the Company mailed stand-alone Rate R-2 discount rate bill inserts to all residential customers detailing the rate and its eligibility criteria in its January, February, June, September and October bills (attached hereto as Exhibit 2). The Company mailed Summary of Rates inserts to all new customers detailing the Rate R-2 discount rate and eligibility criteria in their June, July, August, September, October, and November bills (attached hereto as Exhibit 3). In August, the Company also mailed its annual version of the Summary of Rates insert to all customers. This insert detailed the Rate R-2 discount rate and eligibility criteria (attached hereto as Exhibit 4). In addition, in January, the Rate R-2 discount rate was detailed in an insert mailed to all Standard Offer customers notifying them of the increase in the Standard Offer Service rate.

Mass. Electric Customer Service Representatives also provide discount rate information to all new customers who call to apply for electric service. All Customer Service Representatives have been and continue to be trained on providing current information to new customers as well as to address questions that any customer or organization may have regarding the discount rate.

?? Notice to Customers/ Compliance with Benefit Agency Lists

Each year, customers receiving service under the discount rate must re-apply for benefits. Those customers who no longer qualify for the discount rate are removed from the rate. To prevent potentially eligible customers from being removed from the discount rate prematurely, the Company sends letters and applications to R-2 customers who have not yet reapplied and are going to be removed from the discount rate. This mailing gives affected customers an additional two weeks to re-certify for the discount rate in the event they qualify under another means tested program.

In an effort to place customers on the discount rate that may have not submitted an application, Mass. Electric compares lists provided by benefit agencies of participants receiving benefits through their programs against the Company's customer database. Should a name appear on the list and the customer currently receiving service is not on the discount rate, the Company places the customer on the discount rate without further inquiry or need for documentation.

(2) Describe current procedures used for subscriber eligibility verification and enrollment.

As the Department is aware, the Electric Utility Restructuring Act of 1997 (the “Act”) requires that electric utilities make available a discount rate for those customers of the utility that meet the income eligibility requirements of and receive benefits under means tested public benefit programs, or are eligible for LIHEAP, or its successor program, for which eligibility does not exceed 175% of the federal poverty level (“FPL”).

In conjunction with the enactment of these eligibility requirements for the discount rate, Mass. Electric redesigned its application for service under Rate R-2. Mass. Electric’s application for the R-2 discount rate (attached hereto as Exhibit 5) indicates that to be eligible for the discount: your household income cannot exceed 175% of the FPL; you are a residential customer (primary dwelling only); your electric bill is in your name; AND you are currently receiving benefits under one of the following programs: Supplemental Security Income; TAFDC; EAEDC; Food Stamps; Public Housing; Head Start; Mass. Health; Veterans Non-Service Pension; Veterans Chapter 115 Benefits; Veterans DIC Surviving Parent; Fuel Assistance (includes receipt of benefit or verification of eligibility for the program); National School Lunch Program; School Breakfast Program; or Mass. Commission for the Blind Benefits. By completing the application, the customer authorizes the agency providing the benefits to: (1) release information to Mass. Electric for assignment and annual re-certification for the discount rate; and (2) notify the Company if the customer’s benefits are discontinued. The bottom of the application states that a recent proof of benefits, along with the application, is required for the following programs: Head Start, Veterans DIC Surviving Parent, Veterans Non-Service Pension, National

School Lunch or School Breakfast Program.

The following chart sets forth the Company's verification procedures. For Department of Transitional Assistance benefits, the Company places the customer on Rate R-2 prior to receiving verification from the social services agency. For all other benefits, the Company does not put the customer on Rate R-2 until the Company receives verification from the agency. Those customers who are denied assignment to the discount rate are sent a denial letter and their application is returned to them.

Agency	Verification Procedure
Department of Transitional Assistance for EAEDC, Food Stamps, SSI and TAFDC	Accounts are coded for the R-2 rate until verification from the DTA. A disc is sent to the DTA in Boston for verification. The DTA notifies us of the following: (a) if the customer is active; (b) if the customer's case is closed; or (c) there is no match. Those who are denied are sent a denial letter and the application is returned to them. In addition, their rate is changed back to R-1. (Name & SS# verified)
Fuel Assistance/ LIHEAP	Fuel Assistance notifies Mass. Electric of customer's eligibility and as a result of that notice, the customer is put on the R-2 rate.
Division of Medical Assistance (DMA)	A spreadsheet with customers' names is e-mailed to Boston once a month for verification of eligibility. (Name & SS# verified)
Massachusetts Commission for the Blind	Same as above
Head Start	Customer provides a copy of their child's Head Start enrollment.

School Meal Programs	Customer provides a copy of the “Meal Benefit Notification” that their child is receiving these benefits. In many instances the form is addressed “Dear Parent” and does not include any personal information or the name of the school that the child is attending. Mass. Electric has also received letters on individual school letterhead. Because the School Breakfast and School Lunch programs are individual to each community, it makes it difficult to verify these two benefits. There is no centralized “clearing house” for these programs.
Public Housing	A cover letter along with a copy of the customer's application and the income eligibility guidelines are faxed to the appropriate housing authority or apartment complex manager to verify income and housing. This is done on a monthly basis. Responses are faxed back to the Company.
Veterans Chapter 115 Benefits	A copy of the customer’s application and a benefits certification form for the Veteran's agent to sign are mailed to each of the applicable Veteran's Agents. This is done on a monthly basis. The form is signed and returned to the Company. (Name & SS# are verified)
Veterans Non-Service Pension and Veteran's DIC Surviving Parent	Customer provides a copy of award letter along with their application.

As indicated above, Mass. Electric struggles with obtaining verifications from School Breakfast, School Lunch, Public Housing and all Veteran’s programs.

(3) Discuss whether current subscriber eligibility standards would permit utilities to enroll each other’s customers in discount programs.

As indicated above and as required under the Act, Mass. Electric’s residential discount rate is available to any customer upon verification of a customer’s receipt of any means-tested public benefit, or verification of eligibility for LIHEAP, or its successor program, for which eligibility does not exceed

175% of the FPL based on a household's gross income.

Discount rate eligibility standards, in terms of the financial criteria (*i.e.*, percentage of the FPL) and utilization of specific means tested programs (*i.e.*, assistance agencies), vary across each utility. Since there is an inherent difference in the standards for utilities, it would be extremely difficult to enroll each other's customers on a discount rate which has conflicting income requirements with another utility's discount rate.

To the extent unified eligibility standards were established across each utility, there would still be barriers that would make it logistically difficult for each utility to enroll each other's customers onto its discount rate. Permitting utilities to enroll each other's customers would require each company to build an extensive system to support the exchange of information directly into each other's customer information system. Should the Department find that eligibility for all of the utilities' discount rates be identical, cost recovery of additional benefits provided to qualified customers for those utilities providing additional benefits would be a concern for the utilities. In this case, the Department should consider allowing the utilities to adjust their distribution rates accordingly.

To the extent a complex data exchange system was developed, the utilities would have no guarantee that the customer of record for electric, gas and phone service was the same in all cases. The development of a database would be costly and would likely require the Department to mandate that a customer provide the utilities with a unique identifier, such as social security number, to ensure that utilities were able to uniformly track customers in each other's respective

service territories.³

In addition, issues concerning the release of confidential customer information would need to be explored from a legal perspective if this proposal was to be implemented. See Company's response to Questions 6 and 7 below.

(4) Discuss strategies for addressing varying income requirements of public benefit programs.

Once a customer receives benefits (or in the case of LIHEAP, verification of eligibility to receive benefits) under the many public benefit programs available in the State, the customer is eligible to receive service under the Company's discount rate. To receive benefits under these programs, the customer must fulfill the income requirements of the particular program under which he/she would receive a benefit.

The Company relies on the public benefit programs to determine eligibility for and receipt of benefits from their programs, and thereby eligibility for the Company's discount rate. The Company's processes are premised on the public benefit programs providing such verification as required under the Act to the Company prior to the Company placing the customer on its discount rate. As far as varying income requirements of the various public benefit programs, the Company does not believe this facet should be considered in placing customers on its discount rate. The Act specifically leaves the door open for any number of means tested public benefits, for which eligibility does not exceed 175% of the

³ Mass. Electric does not have the social security numbers of all of its customers. While the Company seeks this information from its customers as a means of having a unique identifier for the customer for administrative purposes, not all customers provide the information and the Company cannot require it. *See Swisher v. Department of the Air Force*, 495 F. Supp. 337, 340 (W.D. Mo. 1980), *aff'd*, 660 F.2d 369 (8th Cir. 1981) (Court found that social security numbers were protected from public disclosure under a Freedom of Information Act request to a government agency; disclosure of social security numbers would "constitute a clearly unwarranted invasion of personal privacy.").

FPL, that would allow a customer to become eligible for the Company's discount rate. Therefore, the varying income requirements for these numerous public benefit programs are not a concern for the Company.

The Company has worked with LIHEAP in differentiating between those customers eligible for the discount rate at 175% of the FPL and the expanded eligibility for LIHEAP at 200% of the FPL implemented within the last year. Since the Act clearly specifies the level of household income that qualifies for the discount rate, the Company established processes with LIHEAP to identify only those customers at or below 175% of the FPL from the total group customers having total household income up to 200% of the FPL and thereby receiving LIHEAP benefits. Since LIHEAP eligibility is specifically stated in the Act, the Company believes it has the latitude to place on its discount rate only those customers meeting the LIHEAP eligibility requirements provided for under the Act.

(5) Discuss whether utilities could implement a computer matching program to verify subscriber eligibility and enroll eligible customers in discount programs.

As part of qualifying to receive the Company's discount rate, a customer needs to be receiving a means tested public benefit. Under a proposal to automate the verification of customer eligibility and enrollment, the utilities and associated means tested benefit programs would need to jointly design and build an information system to process and exchange customer data. In addition, the Company envisions the data flow to be as follows: Upon receipt of an application for the discount rate, the utility would electronically forward the request to the means tested public benefit program for verification. The means tested benefit program would review the application, verify eligibility and electronically respond to the utility with the appropriate authorization to place the customer on the discount rate.

The development of a computer matching program is technically feasible, however it may be costly and logistically difficult to derive a consistent data exchange process and connection for each and every means tested public benefit program, which are decentralized across the Company's service territory. Furthermore, the desire to accomplish this objective from a systems perspective is inherently challenging due to the fact that each means tested organization has varying information system standards, support and level of sophistication. In an ideal world, an agency would act as a centralized point of contact to validate customer eligibility and forward enrollment data to/from the utility. To the extent the Commonwealth centralized the verification process, such actions would dramatically reduce data transmission development and associated cost to the utilities, and would improve the overall enrollment process for customers. The Company strongly encourages the use of technology to exchange data to/from an agency that would act as a centralized bureau to validate eligibility and forward customer specific enrollment information.

(6) Discuss whether any legal impediment exists to enrolling eligible customers in all available discount programs.

Placing eligible customers automatically on all available discount programs raises the legal issue of a potential invasion of a customer's privacy rights associated with the sharing of sensitive, confidential customer information among utilities.

Automatically placing eligible customers on all available discount rates could be a potential invasion of a customer's privacy rights. In order to automatically place an eligible customer on the discount rate, there would have to be a sharing of data among the utilities. In particular, the data that

would need to be shared is sensitive, confidential customer information – specifically, financial status.⁴

Massachusetts courts have found that such information – namely, welfare payments – are “intimate details of a highly personal nature” disclosure of which would constitute an “unwarranted invasion of personal privacy.” *See Doe v. Registrar of Motor*

Vehicles, 1993 Mass. Super. LEXIS 286 (1993) (on remand from 26 Mass. App. Ct. 415 (1998), 27 Mass. App. Ct. 1192 (1989)). The court found that receipt of welfare payments is uniquely private and should be protected as such. *Id.* Accordingly, a customer should be notified and consent to the fact that by applying for a discount rate with one utility, there will be a sharing of such information with other utilities.

(7) Discuss privacy concerns related to electronic sharing of financial or other confidential information.

As discussed in response to Question 6 above, there can be no doubt that a customer’s financial status is private and the electronic sharing of such information could violate a customer’s right to privacy. If a customer consented to allowing the utilities to share this information, there would need to be enough confidentiality provisions in place so that this information would be protected by the utilities and not released to the public.

A similar concern was raised and resolved in the Competitive Markets Initiatives docket, D.T.E. 01-54. In that docket, the Attorney General indicated that the designation of low-income customers or low-income rate classifications should not be released without customer consent. *See Competitive Market Initiatives, D.T.E. 01-54*, Technical Session Transcript (7/24/01), at 63-

⁴ It should be noted that Mass. Electric does not collect or maintain any personal *financial* information regarding its customers. Accordingly, Mass. Electric is not in a position to share *financial* information regarding its customers with other utilities. Mass. Electric’s computers simply recognize whether or not a customer is on the residential

64; Initial Comments of the Office of the Attorney General in D.T.E. 01-54, at 2 (8/10/01).

Moreover, the Massachusetts Union of Public Housing Tenants and National Consumer Law Center expressed a concern that if the class of low-income customers was released to competitive suppliers, tremendous redlining and economic harm could occur. Initial Comments of the Massachusetts Union of Public Housing Tenants and National Consumer Law Center in D.T.E. 01-54 (8/10/01). As a response, the Department concluded that in preparing the Customer Information Lists for disclosure, distribution companies should categorize the rate classifications of their residential customers in a manner that does not differentiate between low-income customers and other customers receiving the same service. D.T.E. 01-54-A, at 15 (2001). Accordingly, in order for a sharing program to work, utilities and social service agencies would have to execute privacy protection agreements to share this sensitive data, and not to release the data to the public.

CONCLUSION

Mass. Electric strongly supports the Department's effort to increase the penetration rate for discounted electric, gas and telephone services and encourages the use of technology to exchange data to/from an agency that would act as a centralized bureau to validate benefits eligibility and forward customer specific enrollment information to the utility. Mass. Electric respectfully requests, however, that the Department address a number of issues surrounding a computer matching program, including: (1) the fact that eligibility standards differ among the utilities, and therefore customers who qualify for a discount rate of one utility may not qualify for the discount rate of another utility; (2) the verification

process is not streamlined among

agencies; (3) the difficulty resulting from a lack of an identifier for a utility to confirm that the Company has recognized the proper customer; (4) the legal issues surrounding customer privacy rights; and (5) the expenses involved in developing and implementing the automated processes presented in the Department's questions.

Respectfully submitted,

**MASSACHUSETTS ELECTRIC COMPANY
AND NANTUCKET ELECTRIC COMPANY**

By their attorney,

Laura S. Olton
25 Research Drive
Westborough, MA 01582

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